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IN THE
Supreme Court of the United States

OCTOBER TERM, 1989

MICHIGAN CITIZENS FOR AN INDEPENDENT PRESS, *et al.*,
Petitioners,
v.

RICHARD THORNBURGH,
UNITED STATES ATTORNEY GENERAL, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals
for the District of Columbia

BRIEF AMICI CURIAE OF UNION LEADERS
REPRESENTING DETROIT FREE PRESS EMPLOYEES
IN SUPPORT OF RESPONDENTS

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INTEREST OF AMICI

The *amici curiae* submitting this brief are six leaders of principal unions representing 929 employees at the Detroit Free Press. They range in size from as few as 18 to as many as 602 members. The *amici* obviously have a direct interest in the outcome of this appeal, which will likely determine whether their members will continue to have jobs at the Free Press. The *amici* are described as follows:

Donald Kummer, administrative officer, The Newspaper Guild of Detroit, Local No. 22, representing 602 news-

room, advertising sales, administrative and circulation clerical employees at the Free Press.

David H. Gray, president, Detroit Typographical Union, CWA, Local No. 18, representing 80 Free Press printers.

Thomas Brennan, president, Graphic Communication Union, Detroit, Local No. 13, representing 181 pressroom operators, including paper handling employees.

Richard Cummings, business agent, International Association of Machinists, Lodge Nos. 698 and 82, representing 26 machinists and mechanics.

Edward M. Patricca, Assistant Business Manager, International Brotherhood of Electrical Workers, Local No. 58, representing 22 electricians and electronic technicians.

David Ivers, business representative, International Union of Operating Engineers, Local No. 547, representing 18 Free Press employees maintaining heating, cooling and plumbing systems.

The parties have consented to the filing of this brief.

ARGUMENT

As Union leaders representing employees of the Detroit Free Press, we urge the Supreme Court to affirm the decision of the U.S. Court of Appeals upholding the joint operating agreement between the Detroit Free Press and the Detroit News. Our first concern is for the welfare of our members, some of whom have been employees of the Free Press for decades.

Our decision to support the JOA is based on a careful and in fact skeptical review of all the available information about the competition between the Free Press and the News. We participated in the administrative hearings as intervenors or interested observers and have searched earnestly for alternative answers that permit the survival of the Free Press outside a JOA. The role of

our members in the editing, sales and production of the Free Press has given us an especially advantageous position from which to observe this competition. To assure the survival and preservation of the editorial voice through the joint operating agreement seems to be the only alternative available.

Without the JOA, the available evidence suggests that the Free Press will close, which will mean the loss of hundreds of jobs. The Detroit News has followed an avowed strategy of maintaining its circulation and advertising lead by holding down prices. App. 87a-90a. The notion that the News, now reinforced by the resources of Gannett, might abandon that strategy and raise prices defies logic and common sense—as well as the stated intention of Gannett. JA 222-23; 228-29. A strategy to return to profitability cannot prove successful in the face of this type of pricing. If the JOA is not approved, the News can continue to prevent the Free Press from achieving profitability and gain a monopoly in the Detroit newspaper market simply by maintaining its present strategy. The Free Press, meanwhile, has no option that it could unilaterally take that would reverse this decade-long pattern of losses—as the Administrative Law Judge, the Attorney General, the district court and the court of appeals all recognized. App. 122a, 141a, 156a, 185a.

The Detroit newspaper competition led to the announcement by Knight-Ridder Newspapers Inc., owner of the Free Press, one and a half years ago, that it will close the paper if the JOA is denied. The losses of the Free Press, the board of directors said on January 21, 1988, could no longer be subsidized if the JOA were not approved. In its annual report for 1988 (at p. 16), Knight-Ridder Inc. said its board had decided that “if the application for a Joint Operating Agreement (‘JOA’) in Detroit is not approved, the company would withdraw from the newspaper publishing business in Detroit.”

The closing of the Free Press would result in the loss of nearly 2,000 jobs at the Free Press. Our membership would be deeply injured by the loss of those jobs. Detroit and Michigan would suffer from the loss of those jobs. The larger community would be deprived as well of a responsible, informative and lively alternative to the News. We believe the loss of the editorial voice of the Free Press would sharply diminish the quality and range of public debate on important issues and result in the loss of a strong advocate for the Detroit community.

For these reasons we strongly urge that the Supreme Court affirm the decision of the U.S. Court of Appeals and uphold the approval of the JOA.

This statement is submitted voluntarily and is solely the result of our belief that the best interest of our membership would be served by approval of the JOA.

Respectfully submitted,

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